

TEWKSBURY BOARD OF HEALTH

Minutes
May 15, 2014

Call of Meeting To Order

MOTION - Ms. Brothers made a motion to call the meeting to order at 7:05 PM. The motion was seconded by Mr. Barry and unanimously voted 4-0.

The meeting was held at the Tewksbury Senior Center. Present at the meeting were, Chairman Phillip French, Vice Chairman Charles Roux, Raymond Barry, Kathleen Brothers, Health Director Lou-Ann Clement and Recording Secretary Dawn Cathcart. Christine Kinnon was not present.

Mr. French stated that there are only four members of the Board present tonight.

Annual Re-organization of the Board

MOTION - Mr. Roux made a motion to nominate Kathleen Brothers as Chairperson. The motion was seconded by Mr. Barry and unanimously voted 4-0.

MOTION - Mr. Roux made a motion to nominate Raymond Barry as Vice Chairman. The motion was seconded by Ms. Brothers and unanimously voted 4-0.

MOTION - Mr. Roux made a motion to nominate Christine Kinnon as Clerk. The motion was seconded by Mr. Barry and unanimously voted 4-0.

Mr. French stated that he and Mr. Roux will be members.

Annual Re-appointment of Health Agents

MOTION - Ms. Brothers made a motion to re-appoint Lou-Ann Clement, Dean Trearchis and Brian Lagrasse as Health Agents. The motion was seconded by Mr. Barry and unanimously voted 4-0.

Annual Re-appointment of Special Health Agents

MOTION - Ms. Brothers made a motion to re-appoint Sarah Kinghorn, Denise Graffeo and the Funeral Directors from Farmer and Dee and Tewksbury Funeral Home as Special Health Agents. The motion was seconded by Mr. Barry and unanimously voted 4-0.

Farmer's Market Update

Ms. Clement stated that the Farmer's Market will start on June 7th and run through September 27th on Saturdays from 10:00 AM to 1:00 PM at the Livingston Street fields. Applications have been given to the food vendors and four applications have been received.

Approval of Minutes – April 3, 2014

Ms. Brothers stated that she noted one correction, on page 7, 4th paragraph, "putting the cart before the house" should be "putting the cart before the horse".

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MOTION - Mr. French made a motion to approve the Board of Health minutes of April 3, 2014 with the correction noted. The motion was seconded by Mr. Roux and unanimously voted 3-0. Mr. Barry abstained from voting.

Status of Tobacco Suspension for Violation of Chapter 11 Tewksbury Board of Health Regulations – Tobacco Control – Restricting the Sale of Tobacco Products and Nicotine Delivery Products – Located at Route 38 Smoke Shop – 553 Main Street, Tewksbury, MA owned by Sagish Patel

Ms. Clement stated that another compliance check was performed and they passed the “Card All ID” requirement. A letter was sent out so they can now proceed to normal ID checks. They are fully aware if there is another sale to minors it will be their third violation and the consequence will be more severe.

Deliberations for the Appeal of Prohibition, Regulations for Keeping of Animals and 105 CMR 410.000 Minimum Standards of Fitness for Human Habitation, Variance for the Keeping of Animals, Site Assignment – M.G.L. c. 111 § 151 Slaughterhouse, and Site Assignment – M.G.L. c. 111 § 143 Trade of Employment of Noisome attended with Noisome Trade and Injurious Odors (Piggery) Located at 199 Marston Street, Tewksbury, MA, Owner: Dinis Oliveira

Attorney Peter Gollub, Dinis Oliveira and Leontina Oliveira-Pacheco appeared for the public hearing.

Ms. Clement stated that the DPW Superintendent, Brian Gilbert is in attendance tonight if the Board has any questions. Chairman Brothers asked Mr. Gilbert to approach the podium. Mr. Gilbert stated that an email was sent to Ms. Clement a while ago presenting the DPW position regarding the sewer. Since that email, some developments have occurred. He received a layout plan and the question was what to do with the sewer line to the slaughterhouse. He received an updated plan today which included a letter from Bakers Commodities to dispose of the blood and animals but it had limitations. There is a missing information/report from the applicant on the scope of the application. Also missing was a plan showing how the plumbing will be corrected to prohibit blood going into the sewer. Mr. Gilbert noted that the original sewer plan was for a domestic sewer tie in for the house and garage. There was no mention of a slaughterhouse until the as-built plans were returned to the office. This may have been an over site. He has instructed the applicant to apply for a sewer modification. There is a question if there should also be an oil/gas separator in the garage/slaughterhouse. The DPWs’ position is that the garage/slaughterhouse should be disconnected from the municipal sewer. There is also a question if slaughterhouses are even allowed in the Town of Tewksbury. The applicant needs to provide the DPW with plans to disconnect the slaughterhouse and with an operational manual of how the by-products of slaughtering will be handled. Mr. Gilbert added that there were two instances where we found blood in the sewer. This property is the only one connected to the man-hole where the blood was found. Mr. Gilbert provided a picture of the blood in the pump station. The blood was tested at the State Police lab and it was determined to be blood.

Mr. French asked if the Town has received any other information on any other company besides Bakers Commodities. Mr. Gilbert stated that he received information from JC Renderings tonight. As part of any approval, a contract should be in place with Mr. Oliveira and whatever company he decides on and should be part of an Operations Manual.

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Mr. Barry stated that there were discussions from the last meeting on process and what should be done first. Mr. Gilbert stated that he believes the permit for the sewer work should not be issued prior to a Site Assignment being issued. Ms. Clement asked if these can be done simultaneously. Mr. Gilbert replied yes, but there are still other issues that need to be resolved.

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Attorney Gollub asked what is needed before the sewer permit can be issued. Mr. Gilbert replied that prior to the permit being issued for a Site Assignment, a zoning determination be made, plus full disclosure from the applicant on what is happening in the building and an Operations Manual. We have two instances where there was blood from this building found in the sewer. Attorney Gollub asked what type of contract would be required. Mr. Gilbert stated that a contract between Mr. Oliveira and whomever he hires to handle the by-products from slaughtering. There should also be a schedule of emptying and cleaning the tank and what they would take because Baker's will not take certain animal parts. Mr. Roux stated that he is looking for a schedule and tank capacity information. Mr. Gilbert stated that we need a plan on how Mr. Oliveira will be dealing with the materials. Mr. Roux stated that the volume relates to the number of animals being slaughtered. Mr. Gilbert stated that the drains should be disconnected from the slaughterhouse but the bathroom toilet and sink could remain connected to municipal sewer. The slop sink should be connected to the tight tank that will be installed, not the municipal sewer.

Mr. Barry stated that at the last meeting, the applicant presented a two page slaughterhouse manual and that is a good start for the operations manual.

Attorney Gollub stated that the volume will be dependent on the amount of animals the Board grants. Attorney Gollub stated that an email was sent on Monday from the engineer to Mr. Gilbert. Mr. Gilbert stated that he has only received a plan from Ms. Clement; he has not received the stamped plan from the engineer. Ms. Clement agreed that the plan is a good start. Attorney Gollub stated that Mr. Oliveira has made steps to improve the operations.

Ms. Brothers stated that she was disappointed that the request for a site visit was denied and she is concerned with the proposed location of the manure pile and the close proximity to the wetlands. Attorney Gollub apologized for not being available for a site visit, but he has a busy schedule and Mr. Oliveira wanted him there.

Ms. Clement suggested that with the deliberations, the Board should take the easiest items first. She believes that would be the trailers.

Removal of Trailers

Ms. Brothers asked if the trailers have been removed yet. Ms. Clement replied no, the Board left the timeframe for removal of the trailers to her and Attorney Gollub. Attorney Gollub stated that we would start with setting a date that he and Ms. Clement could meet. Mr. French stated that the Board voted on that action over a month ago and he thought that would have already been done since it is as simple as proposing a date. Ms. Brothers stated that they should be removed by May 31, 2014. Attorney Gollub stated that he would like to commit to speaking with Ms. Clement by May 31, 2014 to give him a chance to confer with his client. Ms. Brothers stated that she finds it difficult to believe that there has been no discussion on this item since the previous hearing with his client. Mr. French stated that he doesn't want to delay a Site Assignment but the first item that was relatively easy has hit a stumbling block. Ms. Brothers stated that she would recommend that the removal of trailers occur prior to our next meeting in June.

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Keeping of Animals

Ms. Clement stated that the applicant submitted a proposal at the last meeting with the types and number of animals requested. Ms. Brothers stated that the request was for 35 swine, 35 cattle, 60 goats, 40 sheep, 2 ponies, 30 poultry, 21 ducks, and 3 geese. Attorney Gollub replied that was correct.

Mr. Roux asked if we had any permits for these animals. Ms. Clement stated there were permits for 35 swine and 3-4 cattle in the 1970s and 1980s. Mr. Roux stated that there were permits for 275 swine but if the requested animals were approved, then all other permits would be null and void. Ms. Clement replied correct. Attorney Gollub stated that he agreed.

Mr. Barry asked what the date of the permit request is. Attorney Gollub replied April 3rd, 2014. Mr. Barry stated that during the last inspection there were at least 20 over the request for geese. Attorney Gollub stated that his client is confident that they can maintain the numbers requested. It took time to downsize the numbers. Attorney Gollub added that there were 40 sheep on site to handle the Muslim holiday.

Ms. Clement asked if the soil analysis has been done by NCRS. Attorney Gollub replied yes, but they have requested additional testing. Ms. Clement stated that the majority of the animals are not staying on the farm for a long time period. They go from auction to slaughter usually within a week. Ms. Clement asked if the manure has been continued to be hauled away. Attorney Gollub replied yes, based on the function of the slaughterhouse. Ms. Clement stated that she is concerned about the soils being over saturated from many years with animals on this site with no crops being planted to absorb the nutrients of the manure and the topography of the ground that slopes to Long Pond. There is concern that the animals that remain on site for a long duration will contribute to the possible already over saturated soils. Attorney Gollub stated that he is not a soil expert that is why they hired NCRS. There has been no determination made yet but they believe the numbers requested will be manageable. Mr. Roux stated that is what we need to know: the number and types of animals requested relative to the size and topography of what the land can handle. These are grazing animals so the manure will go into the ground. Mr. French stated that we need a list and number of animals before a Site Assignment can be done. Ms. Clement agreed that the number and type of animals will generate the start of the Site Assignment.

Ms. Clement stated that the letter from UMass Extension stated that the animals were healthy and the housing was adequate but the small number of goats on site was less than what is normally there. There may need to be increased housing for the number of goats proposed. Ms. Clement added that there needs to be a ventilation system added for the chickens.

Mr. Barry stated that we need to agree on the total number of animals requested. Ms. Brothers asked if the numbers are accurate or do you want larger numbers. Attorney Gollub stated that larger numbers would give more flexibility if the Board would agree to it. They would be more than grateful to have 275 swine as well as larger numbers for goats, sheep and poultry.

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Mr. Barry stated that NCRS and UMass Extension are helping with the soil and land requirements so we would need their report before any number of animals can be determined. Attorney Gollub added that the manure is being hauled away right now so there is no saturation. Mr. Barry stated that he understands that but not all droppings are getting hauled away because the animals graze. Ms. Brothers stated that the applicant would have to give the Board a proposal stating what type of animals and how many. This must be backed up with the reports from NCRS and UMass Extension in regards to soil testing and housing requirements.

Ms. Clement stated that we need to address the fence issue for the grazing animals also. This issue could be addressed now.

Site Assignment - Piggery

Ms. Clement stated that the regulations require a Site Assignment be done for the piggery. A lot of the information given on April 3rd could be used to start the Site Assignment including that the manure is being hauled away. Ms. Clement stated that she could work with the applicant off-line to create a draft Site Assignment. Ms. Clement stated that she does have some questions:

1. Manure – It is being hauled away now, will it continue? Who is hauling, how often and where to? The number of animals will probably determine some of these answers.
 - a. Manure pile location to the wetlands – The Conservation Agent went out to the site today. Ms. Clement read into record the email from Kyle Boyd, Conservation Agent *“So long as the pile is located beyond 100 feet from the wetlands depicted below and will never encroach upon 100 feet there is no issues with the Conservation Department. My recommendation would be for the pile to be located as far northwest of the property as possible. It should be emphasized that this pile should never be within 100 feet of the wetlands that are indicated on the layout below.”*

Mr. French stated that he is also concerned with the location of the manure pile to the residents since there was already a problem with flies.

Ms. Brothers asked if the relocated pile will be covered or uncovered. Attorney Gollub stated that the USDA will guide us on that. Ms. Brothers stated that in 2008, fecal matter was found in Long Pond from the farm. Attorney Gollub stated that per the plan provided, the proposed location will be 200' from the property lines.

Mr. Barry asked if an operations manual will be required. Ms. Clement replied yes. Mr. Barry stated that we have not seen one yet. Ms. Clement replied that was correct.

1. The Board would need to be notified when manure is spread. During the summer it is recommended that there be no spreading of manure on Friday's or Holidays.
2. Drainage – Daily Inspections are mentioned? By whom and how often? This needs to be expanded.

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3. Cooking of Garbage – She is not familiar with the cooking operation on this farm so we need information on the garbage cooking equipment.
4. Pickup of animal parts and blood – A concrete plan is needed including capacity of tank, who and how often the parts are picked up and when the tank is emptied. Attorney Gollub stated that this will be on an as needed basis. Ms. Clement stated that we need some criteria such as when the tank is $\frac{3}{4}$ full, it needs to be emptied. Where are the parts being stored until pickup? If they are going to be composted we need a plan on how and where.
5. Rodent Management – A plan for rodent and pest management is needed.

Mr. Roux stated that we need to make sure the Site Assignment and Farm are kept separate. Are the animals raised on site anymore or are they brought in? Attorney Gollub replied both. Primarily the goats and sheep are brought in from auction and slaughtered but the cattle and pigs are primarily raised at the farm.

Mr. Barry stated that he would like to make clear the animals that are on site long-term (LT) and short-term (ST): swine (LT), goats/sheep (ST), cattle (LT), chicken, geese and ducks (LT), ponies (LT). Attorney Gollub stated that chicken are slaughtered for personnel consumption but in the future they may ask for chickens to be slaughtered in the slaughterhouse.

Ms. Brothers asked if there are roosters on site. Attorney Gollub replied yes. Ms. Brothers stated that they are prohibited and should be immediately removed. Attorney Gollub replied that they will address that immediately.

Neighborhood Concerns

Ms. Clement stated that they should address the neighborhood concerns.

- Blood in the sewer – Ms. Clement asked what is the anticipated date from the engineer for the plan. Attorney Gollub stated that there is no date yet but he can press him. Mr. Roux asked if the information for the tight tank will be submitted. Attorney Gollub replied yes, it will be submitted through Bob Griffin. Attorney Gollub stated that once the tight tank is installed there should be no blood in the sewer.
- Increase in traffic and traffic at all hours – Ms. Brothers asked why there is traffic at night. Attorney Gollub stated that Mr. Oliveira drives to Pennsylvania to the auction so he may come or leave at night. Ms. Brothers asked if customers come at night. Attorney Gollub replied no; the latest customers come to the site is 5:30-6:00 PM. Ms. Clement stated that when the trailer comes down the dirt road it makes a lot of noise so perhaps if he knows he is going to auction, the truck could be left at the end of the driveway. Attorney Gollub stated that he can speak with his client but notes that if he is coming in with a full load of animals he cannot stop at the end of the driveway. Attorney Gollub asked how often this has been reported. Ms. Clement stated that it was discussed at the public hearing and she has had multiple residents speak with her about it after the meeting. Ms. Brothers stated that she has also been approached regarding the traffic.

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Mr. Roux asked who does the slaughtering of the animals. Attorney Gollub stated that in the past, the slaughtering may have been done by others but now it will only be done by Mr. Oliveira and his employees. Attorney Gollub stated that the Board may want to add operating hours to Site Assignment.

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- Odors and smells – Ms. Brothers stated that these items have already been talked about.
- Animal carcasses hanging from trees – Attorney Gollub stated that animals should not be hanging anywhere but in the slaughter house and that will be corrected.
- Burning of trash or plastic bags – Attorney Gollub stated that was one time and now there is a dumpster and the bags are thrown out.
- Flies – Ms. Brothers stated that she hopes this can be addressed with the improvements being made.

Slaughterhouse

Ms. Clement stated that she read the draft plan and she has a few concerns.

- There is nothing that addresses pest management including keeping flies out of the slaughterhouse.
- There are concerns about cross contamination from the general public. Ms. Clement stated that Mr. Oliveira needs to control his clients. The public should be made to wear booties and once they are in the slaughterhouse they can't come and go. This should be part of the operations manual.
- There needs to be data tracking and guidelines on how to handle the food after slaughter. This can be discussed by email or off-line.
- We need to know how the pellets are stored. They were stacked in the barn in a pile. How often are they removed?

Mr. French stated that his main concern is the neighbors and having these issues addressed will make it better for everyone.

Ms. Brothers stated that without the data tracking, we don't know if people have gotten sick. She is concerned with the blood in the sewer and runoff of manure into the wetlands.

Ms. Clement stated that the applicant should have a draft Site Assignment by the next meeting and the trailers should also be removed by then. The applicant should also supply the requested number and types of animals with the backup from NCRS and UMass Extension to support the requested animals. The next meeting is the third Thursday in June.

Mr. Barry stated that there is still an issue with zoning so how can we issue a Site Assignment. Ms. Clement stated that the zoning issue only deals with the Slaughterhouse.

Ms. Brothers asked if we can meet before the third Thursday of June. Mr. Roux stated that as soon as the information is received we can meet. Ms. Brothers stated that we should meet before then. Mr. French stated that the only reason to meet before our regular scheduled meeting is if the applicant has submitted the required documentation. In that case, it can be a call of the Chair.

Attorney Gollub stated that this is an ongoing process, and the animal permits have technically expired in April, so he requested that there be no penalty for the suspended permits.

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MOTION - Mr. French stated that as this is an ongoing Site Assignment process, there will be no penalty for expired animal licenses at Mr. Oliveira's farm. The motion was seconded by Mr. Barry and unanimously voted 4-0.

MOTION - Mr. French made a motion to close the meeting and adjourn at 8:50 PM. The motion was seconded by Mr. Barry and unanimously voted 4-0.

Approved On: June 19, 2014

List of documents for 5/15/14 Agenda

Documents are located in the Board of Health's Office

Farmers Market Update:

Exhibit #1 Application Package for Farmers Market Food vendor

Minutes:

Exhibit #2 April 3, 2014

Status of the Tobacco Suspension for Route #8 Smoke Shop

Exhibit #3 Letter dated April 22, 2014

Public Hearing:

Exhibit #4 Tight Tank Design revised date May 12, 2014

Exhibit #5 Email from Conversation Agent Boyd to Director Clement dated May 15, 2014

Exhibit # 6 Picture of a pump submitted by DPW Superintendent Brian Gilbert

Exhibit #7 JC Rendering Inc. letter dated May 7, 2014